

Appl. No. 10/811,696
Atty. Docket No. 9533
Amdt. dated March , 2006
Reply to Office Action of December 29, 2006
Customer No. 27752

REMARKS

Claim Status

Claims 1-20 were originally pending in the present application. Claims 1 and 9 have been amended. Claim 21 has been added. Claims 1-21 are now pending in the application. Applicant hereby authorizes the Commissioner to withdraw the necessary fees for one additional dependent claim, along with any other fees deemed necessary for the filing of this or any other communication, from Deposit Account No. 16-2480.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Amendment to the Specification

Applicant has amended the specification at the paragraph beginning at page 16 of the specification, and ending at page 17 of the specification. Specifically, Applicant has properly labeled the third backsheet zone as "380" instead of the previously-recited "370." No new matter has been added by way of this amendment. Formal entry of the amendment is therefore respectfully requested.

Amendment to Claim 9

Claim 9 has been amended to recite that the ratio of the basis weight of said second backsheet zone to the basis weight in said first backsheet zone is less than about 0.6. Support for this amendment can be found at Page 12, lines 1-5.

Rejection Under 35 USC §102(b) Over Dobrin

Claims 1-8 and 11-20 have been rejected under 35 USC §102(b) as being unpatentable over Dobrin. Specifically, Dobrin has been cited as including a physical variation along at least one axis, wherein a physical variation defines a first backsheet zone and a second backsheet zone as illustrated in Figs. 2 and 3. The Office Action asserts that the zones are defined by microapertured regions and unapertured regions of

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the backsheet. The Office Action further asserts that the zones define variations along the lateral axis, and also that physical variations are defined along the longitudinal axis by virtue of apertured regions and non-apertured regions within the apertured zone.

Applicant has amended claim 1 to further clarify the differences between the presently claimed invention and Dobrin. Specifically, claim 1 recites a physical variation that defines a first backsheet zone and a second backsheet zone. The physical variation is as measured by a physical property selected from the group consisting at least one of basis weight, thickness and density. As a result of the physical variation, an average of a given property of the crotch region differs from an average of the given property of at least one of the waist regions. Support for this claim limitation can be found throughout the present application, for instance at each of the Figures which illustrate differently placed backsheet zones.

The invention as recited in claim 1 is not taught or suggested by Dobrin, and further provides advantages not recognized or achievable by Dobrin. For instance, even taking into account the apertures disclosed by Dobrin, the average basis weight, thickness and density of the crotch region does not differ from that of either waist region because, as illustrated, Dobrin does not disclose that the apertures are nonhomogeneously distributed about the absorbent article.

It is thus the present invention, and not Dobrin, that recognizes that implementing varying physical properties enables various shaping of the absorbent article in light of the varying three-dimensional nature of the wearer's anatomy. As one example, referring to Fig. 2, the second backsheet zone 170 is more conformable about the wearer because of its lower value of one of said physical properties. Furthermore, second backsheet zone 170 provides better coverage of the wearer's anatomy in its stretched state. Consequently, second backsheet zone is better suited to conform about the wearer, for example, the buttocks region 139 where the wearer's body protrudes the most. Conversely, first backsheet zone 160 need not be as conformable in order to adapt to the wearer in the crotch region 137 and front waist region 136. (See Page 13, lines 21-29).

Dobrin, on the contrary, discloses the apertured side panels for the purposes of overall comfort to the wearer without recognition of the need or desirability to enable shaping of the absorbent article in light of the nature of the wearer's anatomy. The present invention thus differs both structurally and functionally from Dobrin.

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Because Dobrin fails to teach or suggest each limitation recited in claim 1, and because the present invention achieves advantages not recognized by the prior art, Applicant asserts that claim 1 is allowable over the cited prior art. Applicant further cites the patentability of claim 1 as providing sufficient basis for the patentability of corresponding dependent claims 2-8 and 11-20. Withdrawal of the rejection under 35 USC §102(b) is therefore respectfully requested.

Rejection Under 35 USC §103(a) Over Dobrin

Claims 9-10 have been rejected under 35 USC §103(a) as being unpatentable over Dobrin. Specifically, the Office Action asserts that the parameters claimed are merely optimized ranges achievable by routine experimentation.

As a first ground for patentability, Applicant cites the patentability of claim 1 from which claims 9-10 depend.

As a second ground for patentability, Applicant asserts that it is well-established law that, in order to sustain an obviousness rejection, a particular parameter must first be recognized as a result-effective variable, i.e., a variable which achieves a recognized result, before the determination of the optimum or workable ranges of said variable might be characterized as routine experimentation. See MPEP 2144.05, citing *In re Antonte*, 559 F.2d 618, 195 USPQ 6 (CCPA 1977). With respect to claims 9-10, the Office Action has failed to establish any recognition in the art that the claimed ratio is a result-effective variable.

Moreover, Applicant notes that the problem solved by Dobrin (providing apertured side panels for the purposes of overall wearer comfort) is not of the same general nature of the presently claimed invention, which is the implementation of zones that allow shaping of the absorbent article in light of the varying three-dimensional nature of the wearer's anatomy. Accordingly, the general conditions of claims 9-10 are not disclosed by Dobrin. As a result, one skilled in the art would not be motivated by the teachings of Dobrin to arrive at the ratios recited in claims 9 and 10.

Withdrawal of the rejection of claims 9-10 is therefore respectfully requested.

New Claim

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Applicant has added new claim 21 to the application, which recites the claim limitations of claim 1 as originally presented, and further recites that the elastomeric element extends across the longitudinal axis of the absorbent article. Support for this claim limitation can be found throughout the present application, for instance at Fig. 2 (see ref. no. 190). Applicant has reviewed the cited prior art, and was unable to find any teaching or suggestion to provide the claimed backsheet zones in combination with an elastomeric element that extends across the longitudinal axis of the absorbent article.

Consequently, formal allowance of new claim 21 is respectfully requested.

Conclusion

In view of the previous remarks, it is submitted that all the claims are in condition for allowance. Early and favorable action on all claims is therefore respectfully requested.

If the next action is other than to allow the claims, the favor of a telephonic interview is requested with the undersigned representative.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By Adam J. Forman
Signature

Adam J. Forman
Typed or Printed Name
Registration No. 46,707
(513) 634-5042

Date: May 1, 2006
Customer No. 27752